

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA

In re

TIMOTHY DOUGLAS HAYES,  
  
Debtor.

Case No. 16-bk-11983-REF

Chapter Number: 7

315 BOWERY HOLDINGS, LLC and  
CBGB FESTIVAL, LLC

Plaintiffs,

v.

TIMOTHY HAYES,  
  
Defendant.

Adversary No. 16-186

**JOINT STATUS REPORT**

Pursuant to the Court's Order in the above-captioned adversary proceeding (the "Adversary Proceeding"), entered December 23, 2016 (Adv. Dkt. No. 33) (the "December 2016 Order"), by which the Court stayed the Nondischargeability Action pending a final determination and judgment in the New York state action captioned *SW Productions, Inc. v. CBGB Festival, LLC et al*, No. 652990/2014 (Sup. Ct. N.Y. County 2014) (the "New York Action"), Plaintiffs 315 Bowery Holdings, LLC and CBGB Festival, LLC (together, "CBGB"), and Debtor Defendant Timothy Hayes, through their undersigned counsel, hereby submit this Joint Status Report outlining the status of the New York Action since the Court's December 23 Order.

1. On December 27, 2016, promptly after this Court entered its December 23 Order staying this Adversary Proceeding, undersigned counsel for CBGB contacted all counsel of record in the New York Action. In its December 27 communication, CBGB's counsel (a) informed the other parties to the New York Action of this Court's December 2016 Order and

the order lifting the automatic stay as to Debtor Hayes to allow the New York Action to proceed (*see* Bankr. Dkt. No. 61); and (b) noticed the deposition of Stuart Weissman<sup>1</sup> in the New York Action for January 27, 2017. Counsel for SWP and Mr. Weissman responded that they were not available for Mr. Weissman's noticed deposition on January 27. CBGB has requested Mr. Weissman's available deposition dates, which Mr. Weissman's counsel has yet to provide.

2. In late December 2016 and early January 2017, CBGB contacted all known counsel who have represented Mr. Hayes or his company Productions New York City, LLC ("Productions NYC"), to determine which attorneys, if any, are representing Mr. Hayes personally in the New York Action, and whether they would accept service of CBGB's amended pleading against Mr. Hayes, its Second Amended Answer. No counsel has appeared for Mr. Hayes or identified himself or herself as representing Mr. Hayes in the New York Action. On December 28, 2016, Mr. Castro, counsel of record for Productions NYC, responded that he had not been retained by Mr. Hayes in the New York Action, and that he would be bringing a motion to withdraw as counsel for Productions NYC. Hayes's counsel of record in the above Adversary Proceeding, Bresset & Santora, LLC, does not represent Mr. Hayes in the New York Action.

3. Also in January 2017, CBGB informed Mr. Hayes's counsel in this Adversary Proceeding that it intends to take Mr. Hayes's deposition in the New York Action and requested Mr. Hayes's counsel here consent to lift the stay of the Adversary Proceeding for the limited purpose of Mr. Hayes's deposition, so as to obviate the need for multiple depositions. Debtor's counsel has not yet responded to these inquiries.

4. On January 9, 2017, CBGB issued from the New York Action a subpoena to

---

<sup>1</sup> Mr. Weissman—and his company SW Productions, Inc. ("SWP")—had previously sought a protective order before this Court concerning Mr. Weissman and SWP's subpoenaed depositions in the Adversary Proceeding. (*See* Adv. Dkt. Nos. 19-22, 26, 30.) In the New York Action, SWP is the original plaintiff and a counterclaim defendant, and Mr. Weissman is a third-party defendant.

SWP's accounting firm, seeking documents relevant to the New York Action.

5. On February 2, 2017, SWP and Mr. Weissman's counsel filed in the New York Action a "Notice of Entry" of this Court's December 23 Order.

6. On February 3, 2017, SWP moved for the second time to enlarge its time to appeal the earlier trial court order dismissing some of SWP's claims against CBGB and other defendants in the New York Action. CBGB opposed that request on February 21, 2017. The return date on SWP's motion for an enlargement of time was on February 23, 2017.

Dated: March 1, 2017

MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Kimo S. Peluso  
Kimo S. Peluso (*pro hac vice*)  
Benjamin J. Wolfert (*pro hac vice*)  
7 Times Square  
New York, NY 10036  
(212) 790-4500

Diana L. Eisner  
1050 Connecticut Ave, NW, Ste 600  
Washington, DC 20036  
(202) 585-6500

*Attorneys for Plaintiffs 315 Bowery  
Holdings, LLC and CBGB Festival,  
LLC*

BRESSET & SANTORA, LLC

By: /s/ Ronald V. Santora  
Ronald V. Santora  
Steve Bresset  
1188 Wyoming Avenue  
Forty Fort, PA 18704  
(570) 287-3660

*Attorney for Debtor Defendant  
Timothy Hayes*